THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.7098 of 2007

Dated 09-04-2007

Between:

Sonti Guruvaiah.

…Petitioner

And

The Superintending Engineer, and others.

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.7098 of 2007

ORDER:

The petitioner is the tenant of the 4th respondent, in respect of

non-residential premises. The premises are connected with power supply, through S.C.No.1326-206443 (Category-II). Disputes arose between the petitioner and the respondents. O.S.No.1180 of 2006 is filed, by the petitioner, in the Court of II Additional Junior Civil Judge, Visakhapatnam. He filed I.A.No.324 of 2006, under Order XXXIX Rules 1 and 2 C.P.C., to restrain the 4th respondent from interfering with his possession. The I.A., was dismissed, on 15.06.2006. Thereupon, the petitioner filed C.M.A.No.52 of 2006 in the Court of IV Additional District Judge, Visakhapatnam. In the meanwhile, the power supply, to the premises, was disconnected. In that view of the matter, the petitioner filed I.A.No.182 of 2007, with a prayer to direct the respondents therein to restore the power supply. The appellate Court dismissed the I.A., on 26.02.2007.

This Writ Petition is filed with a prayer to declare the action of respondents 1 to 3 in disconnecting the power supply to the petitioner, at the instance of the 4th respondent.

Heard the learned counsel for the petitioner and the learned standing counsel for respondents 1 to 3.

Being the registered consumer, the 4th respondent is at liberty to seek disconnection, or continuance of power supply. If the petitioner is a tenant and the power supply is an ensured amenity, he is entitled to seek necessary relief from the civil Court. In fact, the petitioner approached the trial Court as well as the appellate Court for necessary reliefs, in this regard.

While dismissing I.A.No.324 of 2006, the trial Court was satisfied that the petitioner is not entitled to be in possession of the premises. Continuance of power supply is ancillary, to such a right. The question as to whether the order passed by the trial Court in I.A.No.324 of 2006, accords with law, or not, is under consideration

before the appellate Court. Even, while the appeal is pending, the power supply cannot be restored. Such an eventuality would arise if the C.M.A., is allowed and the order of temporary injunction is granted. Any observations made by this Court, at this stage, would have its impact on the disposal of the C.M.A.

For the foregoing reasons, the Writ Petition is disposed of, directing that, in case, C.M.A.No.52 of 2006, preferred by the petitioner, is allowed and a temporary injunction is granted, the question of restoration of power supply shall be examined by the appellate Court itself. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.09-04-2007.

GJ